


No. R. 879

9 September 2005

**BASIC CONDITIONS OF EMPLOYMENT ACT, 75 OF 1997****CORRECTION NOTICE: SECTORAL DETERMINATION 6: PRIVATE  
SECURITY SECTOR, SOUTH AFRICA**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of Section 56(3)(b) of the Basic Conditions of Employment Act, 1997, effect corrections to the Sectoral Determination 6: private security sector in South Africa, which appears in the schedule hereto and fix the 2<sup>nd</sup> Monday after publication as the date from which the provisions of the said Sectoral Determination shall be binding.

  
**M M S MDLADLANA, MP  
MINISTER OF LABOUR**

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## 1. AREA AND SCOPE OF APPLICATION

- (1) This determination shall apply in the Republic of South Africa to every employer in the Private Security Sector as defined in sub clause (2), and to all employees in that sector, except those employers and employees referred to in sub clause (3).
- (2) **"Private Security Sector"** means the sector in which employers and employees are associated for the purpose of guarding or protecting fixed property, premises, goods, persons or employees, including monitoring and responding to alarms at premises which are guarded by persons or by electronic means.
- (3) The provisions of this determination shall not apply -
  - (a) to a manager as defined in sub clause 2(36); or
  - (b) to any employer or employee who is subject an agreement of a bargaining council in terms the Labour Relations Act, 1995.
- (4) For the purposes of determining the wage rate applicable to an employee, the area where the employee performs the employee's duties shall be the area contemplated in sub clause (1), irrespective of whether or not the employer has an establishment in that area or not.
- (5) Subject to the provisions of the National Keypoint Act, 1980, this determination shall also apply to employers and employees who provide security services at National Key Points.

## 2. DEFINITIONS

For the purposes of this determination, unless the context otherwise indicates, any expression used therein which is defined in the Basic Conditions of Employment Act, No 75 of 1997, has the same meaning as in that Act and an employee shall be deemed to be in that class in which the employee is wholly or mainly engaged.

- (1) **"Act"** means the Basic Conditions of Employment Act, 1997 (Act No.75 of 1997);
- (2) **"actuary"** means the actuary to the fund appointed by the board in terms of the rules;
- (3) **"administrator"** means an approved administrator of the fund in terms of section 13B of the Pension Funds Act, as amended from time to time and who has been appointed by the trustees of the Fund in terms of the Pension Funds Act and the Fund Rules to administer the Fund;
- (4) **"area"** includes any number of areas, whether or not closest;
- (5) **"artisan"** means an employee who has completed or is deemed to have completed a contract of apprenticeship in a trade designated or deemed to have been designated in terms of the Manpower Training Act, 1981, or who holds a certificate issued or deemed to have been issued to the employee by the Registrar of Manpower Training and conferring Artisan status on the employee in terms of that Act, and any other employee engaged in work normally performed by an Artisan except where specifically otherwise provided in this determination;
- (6) **"basic condition of employment"** means a provision of the Basic Conditions of Employment Act, No 75 of 1997.
- (7) **"benefits"** shall mean the death, disability and funeral benefits provided to members of the Fund in terms of the Fund Rules;
- (8) **"board"** means the board of trustees of the fund appointed or elected in accordance with its rules and the Pension Funds Act;
- (9) **"cargo security officer"** means an employee who guards cargo on a ship;
- (10) **"casual employee"** means an employee without a fixed contract of employment who works not more than 24 hours in any week.
- (11) **"child"** means a person who is under 18 years of age.
- (12) **"clerical assistant"** means an employee who is engaged in any one or more of the following duties :

- (a) Adding or subtracting, including making use of a machine;
  - (b) checking attendance registers or entering particulars in connection with employees who are absent or present or the time spent by employees on different tasks at establishments or places of employment;
  - (c) filing documents according to written instructions or a list, in any order;
  - (d) interpreting or translating languages;
  - (e) issuing passes or preparing certificates of service;
  - (f) issuing time cards;
  - (g) preparing wage or time cards;
  - (h) recording particulars of annual or sick leave;
  - (i) recording particulars in registers otherwise than by means of a typewriter or computer;
  - (j) recording the engagement, dismissal or resignation of employees, including any necessary entries in an employee's file or documents;
  - (k) transferring names and addresses from compiled documents to envelopes, labels or circulars otherwise than by means of a typewriter or computer;
- (12) **"clerk"** means an employee who is engaged in writing, typing or filing or in any other form of clerical work and includes a cashier, Storeman and a telephone switch-board operator, and who may make up money into specified amounts and place such money in envelopes or other containers, but does not include any other class of employee elsewhere defined in this clause, notwithstanding the fact that clerical work may form part of such employee's work;
- (13) **"contribution"** means the combined amount of the employer and employee contribution as per 24.2(1) payable monthly to the fund by each employer in the sector in respect of each of his/her employees whose conditions of employment are governed by the Sectoral Determination 6: Private Security Sector, South Africa who are members of the fund ;
- employee contribution means the amount of the employee's contribution as per 24.2(1) payable monthly to the fund by each employee whose conditions of employment are governed by the Sectoral Determination 6: Private Security Sector, South Africa who are members of the fund ;
- (14) **"controller (stock)"** means an employee who controls or checks the issuing or receiving of uniforms, overalls, protective clothing, batons, handcuffs, flashlights, firearms, ammunition or other equipment and who may keep the necessary records;
- (15) **"Control Centre Operator" and "Communication Centre Operator"** means a security officer who is utilised in an administrative capacity in a control centre or communication centre and who may be called upon to perform any or all of the duties of a clerk.
- (16) **"day"** means a period of 24 consecutive hours reckoned from the time such employee usually commences work and daily has a corresponding meaning;
- (17) **"driver"** means an employee, other than a Security officer, grade A, B or C, who drives a motor vehicle, and for the purposes of this definition the expression "drives a motor vehicle" includes all periods during which an employee drives, all time spent on work connected with the vehicle or the load, and all periods during which the employee is obliged to remain at the post in readiness to drive;
- (18) **"emergency work"** means work that is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work.
- (19) **"employee"** means any person who works for another person or who in any manner assists in carrying on or conducting the business of an employer; and who receives, or is entitled to receive, any remuneration; and **"employed"** and **"employment"** have a corresponding meaning, and which also includes -
- (a) in-house security officers, performing the duties as defined in sub clauses 2(41) to 2(46), who do not fall under the jurisdiction of any other wage determination, sectoral determination or bargaining council agreement; and
  - (b) those persons who qualify to be deemed as employees in terms of clause 16 of this determination.
- (20) **"employer"** means any person (including created entities, corporate or un-incorporated) other than a person who is exempted in terms of clause 1(2) of the determination, who employs or provides work for

any person in the Private Security Sector and remunerates him or permits any person in any manner whatsoever to assist him in the carrying on or conducting of his business and "employ" and "employment" shall have corresponding meanings.

- (21) **"establishment"** means the premises from which an employer conducts his business;
- (22) **"experience"** means, in relation to -
- (a) a clerk, the total period or periods of employment which an employee has had as a clerk in any trade or industry or in the service of a local authority or the State;
  - (b) a clerical assistant, the total period or periods of employment which an employee has had as a clerical assistant in any trade or industry or in the service of a local authority or the State;
- (23) **"Fund"** means the Private Security Sector Provident Fund established in terms of Government Notice 306 of 30 March 2001, which is governed by the Fund Rules and the Pension Funds Act;
- (24) **"Fund commencement date"** means 1 November 2002;
- (25) **"Fund Rules"** means the rules of the Fund, as amended by the trustees of the Fund from time to time and registered with the Registrar of Pension Funds in terms of the Pension Funds Act;
- (26) **"Fund Salary"** means the salary used for the calculation of employer and employee contributions to the fund and is calculated as follows:

$$A \times B \times 4.333$$

Where

A = employee's ordinary hourly equivalent rate of pay

B = the maximum number of ordinary hours an employee is permitted to work at the ordinary rate of pay as per Sectoral Determination 6 of 2001 or such lesser number of ordinary hours the employee works as may be agreed in writing between the employee and the employer or any reduced maximum ordinary hours an employee may work that may be legislated in terms of a Sectoral Determination or the Basic Conditions of Employment Act whichever is applicable.

- (27) **"general worker"** means an employee who is engaged in any one or more of the following duties:
- (a) Affixing postage stamps to letters, parcels or other articles;
  - (b) affixing rubber stamps or serial numbers where discretion is not required;
  - (c) assisting an Artisan by holding articles or tools or working with the artisan without making independent use of any tools;
  - (d) assisting on vehicles, otherwise than driving, guarding or repairing such vehicles, carrying, lifting, storing, moving, loading, unloading, opening or closing goods or parcels;
  - (e) cleaning or washing premises, doors, windows, equipment, tools, plant, machinery, furniture, vehicles, containers or other articles, and includes the polishing of floors, furniture or vehicles or the brushing of mats or the cleaning of mats by means of a machine;
  - (f) cooking rations or making tea or similar beverages for employees, including serving them, or making tea or other refreshments for the employer or the employer's guests, including the serving thereof;
  - (g) delivering or conveying messages, letters, goods or parcels on foot, or by any means excluding motor vehicles;
  - (h) feeding or tending animals;
  - (i) filling fuel tanks or filling or draining oil sumps;
  - (j) gardening;
  - (k) oiling or greasing vehicles, plant or machinery;
  - (l) opening or closing doors or windows;
  - (m) pushing or pulling vehicles otherwise than by means of mechanical equipment;
  - (n) removing refuse or ashes;
  - (o) removing, replacing, changing wheels, tyres or tubes, or repairing or pumping tyres or tubes;
  - (p) removing, topping up or replacing batteries;
  - (q) replacing towels, soap or toilet paper;
  - (r) stamping or stenciling containers or parcels where discretion is not required;

- (s) washing or ironing overalls, uniforms or protective clothing;
  - (t) whitewashing, cleaning or disinfecting kennels, stables, outbuildings or toilets;
- (28) **"goods"** means any movable property, but not limited to, money and other valuables belonging to or in the custody of the employer, that has to be guarded, protected or transported under guard;
- (29) **"gross vehicle mass"**, in relation to a motor vehicle, means the maximum mass of such vehicle and its load as specified by the manufacturer or, in the absence of such specification, as determined by the registering authority;
- (30) **"handyman"** means an employee, other than an apprentice or a trainee, who is engaged in making minor repairs or adjustments to machinery or equipment, and who may also effect minor repairs or renovations to buildings, but who does not do any work normally performed by an Artisan;
- (31) **"heavy motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 9,000 kg;
- (32) **"hourly wage"** means an employee's hourly equivalent wage in respect of ordinary hours worked, as set out in clause 3 (1) (b), and in the case of a ship Security officer and a cargo Security officer it means the wage referred to in clause 3(1)(d);
- (33) **"law"** includes the common law;
- (34) **"light motor vehicle"** means a motor vehicle the gross vehicle mass of which does not exceed 3,500 kg;
- (35) **"local authority"** means any borough council, city council, municipal council, village management board, divisional council or any similar institution or body contemplated in section 84(1)(f) of the Provincial Government Act, 1961, or in any other parliamentary legislation;
- (36) **"manager"** means an employee who is charged by an employer with the overall supervision over, responsibility for and direction of the activities of an establishment or part of an establishment and the employees engaged therein, but does not include any employee in the same establishment who relieves or acts for a manager during the manager's absence;
- (37) **"medical practitioner"** means a person entitled to practice as a medical practitioner in terms of section 17 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 50 of 1974).
- (38) **"member"** means an employee who, having been admitted to membership of the fund in accordance with the rules of the fund, has not ceased to be a member of the fund in terms of the rules;
- (39) **"midwife"** means a person registered or enrolled to practice as a midwife in terms of section 16 of the Nursing Act, 1978 (Act No. 50 of 1978).
- (40) **"medium motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 3,500 kg but not 9,000 kg;
- (41) **"motor vehicle"** means a self-propelled vehicle used for the transportation of goods, persons or dogs, and includes a motor cycle and a motorised three-wheeler;
- (42) **"night work"** means work which is performed between the hours of 18:00 on one day and 06:00 the next day.
- (43) **"ordinary hours of work"** means the hours of work prescribed in clause 5(1), but if by agreement between an employer and employee the latter works a lesser number of ordinary hours, it means such shorter hours and excludes any hours paid at a premium for work performed on a Sunday or Public Holiday or in respect of overtime.
- (44) **"ordinary salary"** means the employee's salary excluding any premium for work on a Sunday or public holiday or in respect of overtime payable to an employee in terms of clause 3(1) in respect of ordinary hours worked;
- (45) **"overtime"** means that portion of any period worked by an employee in any week or on any day which is longer than the maximum permissible weekly or daily ordinary hours of work, as the case may be.

- (46) **"Pension Funds Act"** means the Pension Funds Act No.24 of 1956, as amended;
- (47) **"premises"** means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft or vessel;
- (48) **"public holiday"** means any day that is a public holidays in terms of the Public Holidays Act, 1994 (Act number 36 of 1994);
- (49) **"qualified"**, in relation to an employee referred to in sub clauses (9) and (10), means that the experience of an employee in the employee's class entitles the employee to the highest wage rate prescribed for that class of employee, and conversely, "unqualified" means that experience in the employee's class does not entitle the employee to such highest wage rate;
- (50) **"remuneration"** means any payment in money or kind, or both in money and kind, made or owing to any person in return for that person working for any other person, including the State, and **"remunerate"** has a corresponding meaning;
- (51) **"retirement fund act"** means the Pension Fund Act, 1956( Act No. 24 of 1956), and the regulations thereunder;
- (52) **"rules"** means the rules of the fund agreed by the board in accordance with the Retirement Fund Act;
- (53) **"security officer"** means a Security officer, grade A, B, C, D or E;
- (54) **"security officer, grade A"** means an employee who performs any one or more of the following duties:
- (a) Advising or reporting on any matter affecting guarding or protection services;
  - (b) assisting in the screening of candidates for employment;
  - (c) assuming responsibility for staff training;
  - (d) drawing money or cheques or taking possession of negotiable documents;
  - (e) drawing money at banks or similar institutions;
  - (f) guarding or protecting goods;
  - (g) supervising subordinate staff;
  - (h) who may drive a motor vehicle in the performance of any or all of the employee's duties; and
  - (i) who may be called upon to perform any or all of the duties of a security officer, grade B.
- (55) **"security officer, grade B"** means an employee who performs any one or more of the following duties, namely, supervising, controlling, instructing or training security officers, grade C, D or E or general workers and reporting thereon to an employer or any other specified person, and who may-
- (a) drive a motor vehicle in the performance of any or all of the employee's duties;
  - (b) be called upon to perform any or all of the duties of a security officer, grade C;
- (56) **"security officer, grade C"** means an employee who performs any one or more of the following duties :
- (a) supervising or controlling Security officers, grade D or E;
  - (b) driving a motor vehicle in the course of supervising or controlling Security officers grade D or E;
  - (c) driving a motor vehicle for the purpose of transporting Security officers; and
  - (d) who may be called upon to perform any or all of the duties of a security officer, grade D.
- (57) **"security officer, grade D"** means an employee who performs any one or more of the following duties :
- (a) controlling or reporting on the movement of persons or vehicles through checkpoints or gates;
  - (b) searching persons and, if necessary, restraining them,
  - (c) supervising or controlling Security officers, grade E;
  - (d) searching goods or vehicles; and
  - (e) who may be required to perform any or all of the duties of a security officer, grade E.
- (58) **"security officer, grade E"** means an employee, other than a Security officer, grade D, who performs any one or more of the following duties :
- (a) Guarding, protecting or patrolling premises or goods;
  - (b) Handling or controlling dogs in the performance of any or all of the duties referred to in (a);
- (59) **"spare and reliever"** means an employee :
- (a) who reports for duty at a specified place and time, and;
  - (b) who must remain at the specified place for the duration of that shift, or who is required to replace

any other employee who may be on scheduled time-off, annual leave or absent from duty, or who is required to perform duties at any place designated by the employer.

- (60) **"ship security officer"** means an employee who guards the entrance to or exit from a ship;
- (61) **"short time"** means a temporary reduction in the number of ordinary hours of work owing to a slackness of business in the trade, a breakdown of plant, machinery or equipment, or a breakdown or threatened breakdown of buildings;
- (62) **"store person"** means an employee, other than a controller (stock), who is in charge of incoming stock and who is responsible for receiving, storing, packing or unpacking stock in or for issuing stock from a store, warehouse or open stockyard;
- (63) **"Sunday work"** means any work performed where the relevant shift commences on a Sunday and where at least half of that shift is performed on that Sunday;
- (64) **"trustee" or "trustees"** means a trustee or the trustees or their alternates elected or appointed in terms of the Fund Rules;
- (65) **"week"** in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls.

### 3. REMUNERATION

#### (1) **Minimum wages :**

- (a) The ordinary salary which an employer shall pay employees shall be as specified in sub clauses (1)(b), (1)(c) and (1)(d).
  - (i) The hourly equivalents reflected in the table hereunder shall be used solely for the calculation of time worked in excess of the ordinary hours or for the deduction of monies from the ordinary salary for short time as defined or for any unauthorised absenteeism or any reduced ordinary hours of work as may be agreed between the employer and the employee in terms of clause 2(43).
- (b) Subject to (a)(1) above, an employer shall pay to each member of the under mentioned classes of employees, other than casual employees, cargo security officers or ship security officers, the minimum wages specified hereunder :



MONTHLY SALARY RATES AS FROM 16 JUNE 2005																
	AREA 1			AREA 2			AREA 3			AREA 4			AREA 5		Maximum permissible working hours per week for each respective category of employee, subject to clause 5(2), with regard to averaging of working hours.	
In the Magisterial Districts of	Monthly salary	Hourly equivalent	Bloemfontein, East London, Kimberley, Klerksdorp, Pietermaritzburg, Somerset West, Stellenbosch and Strand	Hourly equivalent	Monthly salary	Hourly equivalent	Odendaalsrus, Potchefstroom, Virginia, Welkom and Witbank.	Monthly salary	Hourly equivalent	Bethlehem, George, Hennenman, Highveld Ridge, King William's Town, Klip River, Knysna, Lower Tugela, Lower Umfolozi, Middelburg (Mpumalanga), Mossel Bay, Nelspruit, Newcastle, Oudtshoorn, Pietersburg, Port Shepstone, Polgietersrus, Rustenburg, Queenstown and Umzinto.	Monthly salary	Hourly equivalent	All other areas.			
	R 2 867	R 14.70		R 13.38	R 2 504	R 12.84		R 2 205	R 11.31		R 1 975	R 10.13		45		
Artisan																
Clerical Assistant															45	
During the first year of experience	R 1 429	R 7.33		R 6.72	R 1 184	R 6.07		R 1 115	R 5.72		R 999	R 5.12				
During the second year of experience	R 1 478	R 7.58		R 6.91	R 1 221	R 6.26		R 1 147	R 5.88		R 1 026	R 5.26		45		
Thereafter	R 1 523	R 7.81		R 7.18	R 1 273	R 6.53		R 1 184	R 6.07		R 1 057	R 5.42				
Clerk														45		
During the first year of experience	R 1 560	R 8.00		R 7.35	R 1 314	R 6.74		R 1 215	R 6.23		R 1 084	R 5.56				
During the second year of experience	R 1 755	R 9.00		R 8.47	R 1 478	R 7.58		R 1 357	R 6.96		R 1 213	R 6.22				
During the third year of experience	R 1 931	R 9.90		R 9.06	R 1 656	R 8.49		R 1 494	R 7.66		R 1 336	R 6.85		45		
Thereafter	R 2 122	R 10.88		R 9.94	R 1 815	R 9.31		R 1 630	R 8.36		R 1 458	R 7.48				
Control or Communication Centre Operator							As for relevant Security Officer grading							48		
Controller																
Driver of a -							As for a Clerical Assistant							45		
Light motor vehicle	R 1 503	R 7.71		R 7.15	R 1 264	R 6.48		R 1 168	R 5.99		R 1 047	R 5.37				
Medium motor vehicle	R 1 722	R 8.83		R 8.15	R 1 461	R 7.49		R 1 336	R 6.85		R 1 197	R 6.14		45		
Heavy motor vehicle	R 1 856	R 9.52		R 8.80	R 1 587	R 8.14		R 1 431	R 7.34		R 1 285	R 6.59				
General Worker														45		
During the first six months service with the same employer	R 1 170	R 6.00		R 5.51	R 963	R 4.94		R 915	R 4.69		R 817	R 4.19				
Thereafter	R 1 248	R 6.40		R 5.93	R 1 039	R 5.33		R 987	R 5.06		R 881	R 4.52		45		
Handyman	R 1 665	R 8.54		R 7.91	R 1 420	R 7.28		R 1 297	R 6.65		R 1 159	R 5.94				
Security Officer														45		
Grade A	R 2 733	R 13.14		R 12.00	R 2 267	R 10.90		R 2 107	R 10.13		R 1 891	R 9.09				
Grade B	R 2 286	R 10.99		R 10.01	R 1 878	R 9.03		R 1 743	R 8.38		R 1 564	R 7.52		48		
Grade C	R 1 756	R 8.44		R 7.78	R 1 460	R 7.02		R 1 371	R 6.59		R 1 221	R 5.87				
Grade D	R 1 587	R 7.63		R 6.97	R 1 319	R 6.34		R 1 231	R 5.92		R 1 108	R 5.33		45		
Grade E	R 1 500	R 7.21		R 6.62	R 1 244	R 5.98		R 1 171	R 5.63		R 1 050	R 5.05				
Employees not elsewhere specified	R 1 445	R 7.41		R 6.81	R 1 199	R 6.15		R 1 140	R 5.85		R 1 016	R 5.21		45		

- (c) **Casual employees:** An employer shall pay a casual employee in respect of each hour or part of an hour (excluding overtime) worked by the employee on any day other than a paid holiday or a Sunday not less than the hourly wage prescribed in sub clause (1)(b) for an ordinary employee who in the same area performs the same class of work as the casual employee is required to do, plus 15 percent, or not less than the hourly wage or hourly equivalent of the wage actually being paid to the ordinary employee, whichever is the greater amount :

Provided that -

- (i) for the purposes of this paragraph the expression "the ordinary employee" means the employee who performs the particular class of work in the employer's full-time employ and who is being paid the lowest wage for that class of work;
  - (ii) where the employer requires the casual employee -
    - (aa) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage prescribed for a qualified employee of that class;
    - (ab) to work for a period of less than four hours on any day, the employee shall be deemed to have worked four hours and remunerated accordingly.
- (d) **Ship security officers and cargo security officers:** A ship security officer and a cargo security officer shall be paid at least R4.83 for each hour or part of an hour of employment.
- (2) **Basis of contract:** For the purposes of this clause, the contract of employment of an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be on a weekly basis.
- (3) **Differential wage :** An employer who requires or permits a member of one class of employee to perform for longer than one hour on any day, either in addition to the employee's own work or in substitution therefore, work of another class for which -
- (a) a wage higher than that of the employee's own class is prescribed in sub clause (1), shall pay to such employee in respect of that day not less than the daily wage calculated at the higher rate; or
  - (b) a rising scale of wages terminating in a wage higher than that of the employee's own class, as prescribed in sub clause (1), shall pay to such employee in respect of that day not less than the daily wage calculated on the notch in the rising scale immediately above the wage which the employee was receiving for the employee's ordinary work: provided that -
    - (i) this sub clause shall not apply where the difference between the classes in terms of sub clause (1) is based on experience;
    - (ii) unless expressly otherwise provided in a written contract between the employer and employee, nothing in this determination shall be so construed as to preclude an employer from requiring an employee to perform work of another class for which class the same or a lower wage is prescribed for such an employee.
- (4) **Calculation of salary :** The ordinary salary, overtime and Sunday time of an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be calculated on a monthly basis and an employee shall be paid accordingly.
- (a) The monthly salary of an employee shall be as stipulated in the relevant column of the tables in sub clause 3(1)(b).
  - (b) Any hours in excess of the maximum daily or weekly ordinary hours or, if applicable, average weekly ordinary hours, as well as any hours in respect of work performed on a Sunday or public holiday, shall be calculated by using the "hourly equivalent" figure in the relevant column of the table in sub clause 3(1)(b), applying the relevant premium percentage.
- (5) **Night shift allowance :** If at least half of the shift ordinarily falls between the hours of 18:00 on one day and 06:00 the next day that employee will be entitled to and shall receive an allowance in respect of each night shift worked.

(a) The night shift allowance payable in terms of this sub clause shall be R 2.50.

- (6) **Firearm Use:** An employer shall pay an employee who is required to carry a firearm issued by the employer for the performance of an employee's duties at a rate of not less than that specified for a grade D security officer for the time the employee was required to carry the firearm or at the rate which an employee normally receives, whichever is the highest.

#### 4. PAYMENT OF REMUNERATION

- (1) For employees, other than casual employees, ship security officers and cargo security officers, an employer must pay to an employee any remuneration -
- (a) in South African currency;
  - (b) daily, weekly, fortnightly or monthly; and
  - (c) in cash, by cheque or by direct deposit in an account designated by the employee.
- (2) Any remuneration paid by cheque or by cash must be given to each employee -
- (a) during the ordinary hours of work, or
  - (b) within 15 minutes thereafter on the usual pay-day of the establishment for such employee, or
  - (c) at such time as may have been agreed upon between such employee and the employer, which time shall fall during the ordinary hours of work of the establishment, but not later than 48 hours after the usual pay-day, or
  - (d) within 7 days of termination of employment.
- (3) Such amount shall be contained in a sealed envelope.
- (4) An employer must give an employee a payslip on which the following information is included in writing on each day the employee is paid:
- (a) the employer's name and address;
  - (b) the employee's name or his number on the payroll, the employee's job category and grade;
  - (c) the period for which payment is made;
  - (d) the amount and purpose of any deductions made from the remuneration;
  - (e) the nett amount paid to the employee;
  - (f) the employee's hourly rate of pay and overtime rate;
  - (g) the number of ordinary hours worked by the employee;
  - (h) the number of overtime hours worked by the employee;
  - (i) the number of hours worked by the employee on a Sunday during that period;
  - (j) the number of hours worked by an employee on a public holiday during that period; and
  - (k) the details of any other remuneration arising out of the employee's employment contract or in terms of an agreement to average working time in terms of the BCEA No 75 of 1997;
- (5) The written information required in terms of sub clause (4) must be given to each employee at the workplace or at a place agreed to by the employee and such payslip on which these particulars are recorded or such statement shall become the property of the employee: Provided that -
- (a) the particulars prescribed above may be recorded on a payslip or such statement in code which shall be fully set out and explained in an accompanying notice or in a notice kept posted in some conspicuous place in the establishment, accessible to all employees affected thereby;
  - (b) the amount due to the employee may be paid into the employee's nominated building society or bank account, by manual or electronic funds transfer, by the employer, who shall, however, hand to the employee the aforementioned statement.
- (6) **Casual employees, ship security officers and cargo security officers :** An employer shall pay a casual employee, a ship security officer or a cargo security officer the remuneration due to the employee in cash on completion of each day's work: Provided that the employer may, at the request of such employee, pay the employee the remuneration at the end of that week or month, by mutual agreement.
- (7) **Premiums :** Subject to any other law, no payment by or on behalf of an employee shall be accepted by an employer, either directly or indirectly, in respect of the employment or training of that employee and no employer shall require an employee to -
- (a) repay any portion of the remuneration which was due to that employee; or
  - (b) acknowledge receipt of an amount greater than the remuneration actually paid to the employee.
- (8) **Purchase of goods :** An employer shall not require an employee to purchase any goods from the employer or from any shop, place or person nominated by the employer.

- (9) **Accommodation, meals and rations and payment in natura** : An employer shall not as a condition of employment require an employee to accept accommodation, meals or rations from the employer or from any person or at any place nominated by the employer. An employer shall not as a condition of employment require an employee to receive any in natura form of payment in lieu of wages or a part thereof.
- (10) If an employee works as a "**spare**" or "**reliever**", the employee will be employed on a full time basis, at the rate for the relevant category of employment, and the employer must pay the employee the amount that the employee would ordinarily have earned even if that employee had not been placed at a post.

(11) **Deductions** : An employer shall not levy any fines against an employee nor make any deductions from the employee's remuneration other than the following -

- (a) subject to clause 4(11)(c), by agreement with the employee in writing in respect of a debt specified in the agreement, or
- (b) a deduction of any amount which an employer by law or order of any competent court is required or permitted to make;
- (c) to reimburse the employer for loss or damage only if -
  - (i) the loss or damage occurred in the course of employment and was due to the fault of the employee,
  - (ii) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deduction should not be made,
  - (iii) the total amount of the debt does not exceed the actual amount of the loss or damage, and
  - (iv) the total monthly deductions from the employee's remuneration in terms of this subclause do not exceed one quarter of the employee's monthly remuneration in money.
- (d) With the written consent of the employee, a deduction for any medical, insurance, savings, provident or pension fund, or in respect of subscriptions to a trade union;
- (e) Whenever the ordinary hours of work are reduced because of short time, a deduction not exceeding the amount of the employee's (other than a casual employee, a ship security officer or a cargo security officer's) hourly wage in respect of each hour of such reduction:  
Provided that-
  - (i) such deduction shall not exceed one third of the employee's wage, irrespective of the number of hours by which the ordinary hours of work are thus reduced;
  - (ii) no deduction shall be made in the case of short time arising from slackness of business, unless the employer has given an employee notice on the previous working day of the employer's intention to reduce the ordinary hours of work;
  - (iii) no deduction shall be made in the case of short time owing to a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings, in respect of the first hour not worked, unless the employer has given an employee notice on the previous day that no work will be available.
- (f) with the written consent of an employee, a deduction towards the repayment of any amount loaned or advanced to the employee by the employer; Provided that -
  - (i) any such deduction shall not exceed one third of the total remuneration due to the employee on the pay-day concerned;
  - (ii) no such deduction shall be made in respect of any period during which the employee's wage is reduced in terms of sub clause (e);

Provisos (i) and (ii) shall not apply where the contract of employment is terminated.
- (g) A deduction in accordance with the provisions of clause 9(7); and
- (h) any other deduction made at the written request of the employee and with the agreement of the employer: Provided that if the purpose of such deduction is the payment of any amount to any banking institution, building society, insurance business, registered financial institution, local authority, the State or any third party, the employer shall make such payment to such institution in accordance with the request of the employee within the timeframe indicated in such request, or where no timeframe is indicated, within one week.

## 5. ORDINARY HOURS OF WORK, OVERTIME AND PAYMENT FOR OVERTIME

(1) An employer shall not require or permit an employee to work more ordinary hours of work than provided for from the date of implementation of this determination -

- (a) a security officer, -

- (i) 48 in any week; and
    - (ii) subject to subparagraph (i), 12 on any day;
  - (b) a ship security officer or cargo security officer; 12 on any day;
  - (c) any other class of employee -
    - (i) 45 in any week; and
    - (ii) subject to subparagraph (i), in the case of an employee who normally works on-
      - (aa) not more than five days in a week, nine on any day; and
      - (ab) more than five days in a week, eight on any day.
- (2) **Averaging of Working Hours :** Despite sub clause (1), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months, in terms of a written agreement.
- (a) An employer may not require or permit an employee who is a security officer to work more than -
    - (i) an average of 48 ordinary hours of work in a week over the agreed period; and
    - (ii) an average of ten hours overtime in a week over the agreed period.
  - (b) Any employee whose hours are averaged in terms hereof must be paid at the premium hourly rate in respect of all work performed on a Sunday or public holiday, as per clauses 7 and 8.
  - (c) Any employee whose hours are averaged in terms hereof will still take, and the employer shall grant, a weekly free period of at least 36 hours or a fortnightly free period of at least 60 hours in terms of clause (10).
- (3) **Compressed working week :** An agreement in writing may require or permit an employee to work up to 12 hours in a day, without receiving overtime pay. No such agreement may require or permit an employee to work -
- (a) more than 48 ordinary hours in any week, with the exception of the arrangements in respect of security officers in terms of sub clauses (1)(a);
  - (b) more than 10 hours overtime in any week; or
  - (c) on more than five days in any week.
- (4) **Meal intervals :** An employer shall not require or permit an employee, other than a casual employee, a security officer, a ship security officer or a cargo security officer, to work for more than five hours continuously without a meal interval of not less than one hour, during which interval such employee shall not be required or permitted to perform any work, and such interval shall not form part of the ordinary hours of work or overtime: Provided that -
- (a) such interval may be reduced to not less than half an hour by written mutual agreement between an employer and an employee;
  - (b) periods of work interrupted by intervals of less than one hour, except where proviso (a) or (e) applies, shall be deemed to be continuous;
  - (c) if such interval is longer than one hour, any period exceeding one and a quarter hours shall be deemed to form part of the ordinary hours of work;
  - (d) only one such interval during the ordinary hours of work of an employee on any day shall not form part of the ordinary hours of work;
  - (e) when on any day by reasons of overtime worked, an employer is required to give an employee a second meal interval, such interval may be reduced to not less than 15 minutes;
  - (f) a driver who during such interval does not work other than being or remaining in charge of the vehicle or its load shall for the purposes of this subclause be deemed not to have worked during such interval;
  - (g) in case of an employee who is wholly or mainly engaged in cleaning premises, if such interval is longer than three hours, any period in excess of three hours shall be deemed to form part of the ordinary hours of work.
- (5) **Rest intervals :** An employer shall grant to each employee, other than a driver, a security officer, a ship security officer or cargo security officer, a rest interval of not less than 15 minutes as practicable in the middle of the first and second work period of the day, and during such interval such employee shall not

be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee.

- (6) **Hours of work to be consecutive :** Save as provided in sub clauses (4) and (5), all hours of work of an employee, other than a ship security officer or a cargo security officer, on any day shall be consecutive.

- (7) **Night Work :**

- (a) An employer may only require or permit an employee to perform night work if -
  - (i) the employee is compensated by the payment of an allowance, as per clause 3(5); and
  - (ii) public or other transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
- (b) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must inform the employee in writing, or orally, if the employee is not able to understand a written communication, in a language that the employee understands -
  - (aa) of any health and safety hazards associated with the work that the employee is required to perform; and
  - (ab) of the employee's right to undergo a medical examination in terms of sub clause (7)(c).
- (c) At the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards -
  - (aa) before the employee starts, or within a reasonable period of the employee starting, such work; and
  - (ab) at appropriate intervals while the employee continues to perform such work; and
- (d) Transfer the employee to suitable day work within a reasonable time if -
  - (aa) the employee suffers from a health condition associated with the performance of night work; and
  - (ab) if it is practicable for the employer to do so.
- (e) For the purposes of sub clause (7)(b), an employee works on a regular basis if the employee works for a period of longer than one hour after 23:00 and before 06:00 at least five times per month or fifty times per year.

- (8) **Limitation of overtime:** The need to work overtime shall be at the sole discretion of the employer and an employer shall not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by the employer with the employee and such overtime shall not exceed -
  - (a) three hours on any day or
  - (b) 10 hours in any week.

- (9) **Payment for overtime:** An employer shall pay an employee who works overtime, at a rate of not less than one and a half times the employee's hourly equivalent wage in respect of the total overtime period so worked by such employee.

- (10) **Rest periods:**

- (a) An employee must allow an employee -
  - (i) a daily rest period of at least 12 consecutive hours between the normal ending and recommencing work; and
  - (ii) a weekly rest period of at least 36 consecutive hours.
- (b) A daily rest period in terms of sub clause (10)(a) may, by written agreement, be reduced to 10 hours for an employee -
  - (i) who lives on the premises at which the workplace is situated; and
  - (ii) whose meal interval lasts for at least three hours.
- (c) Despite sub clause (10)(a)(ii), an agreement in writing may provide for -
  - (i) a rest period of at least 60 consecutive hours every two weeks; or
  - (ii) an employee's weekly rest period to be reduced by up to eight hours in any week; if the

rest period in the following week is extended equivalently.

(11) **Exceptions:**

- (a) Sub clauses (4), (5), (6), (8) shall not apply to an employee while an employee is engaged in emergency work.
- (b) Sub clause (4) shall not apply to an employee wholly or mainly engaged in the tending, feeding or cleaning of animals.

**6. ANNUAL BONUS**

- (1) An employer shall pay to every employee, for each month that the employee was paid or entitled to be paid in respect of each completed 12 months of service with such employer, an annual bonus, subject to the conditions of sub clauses (2) and (3), below calculated as follows:

$$\frac{A \times B}{12}$$

Where

A = Employee's hourly equivalent rate of pay

B = The actual ordinary hours worked by or the employee was entitled to be paid for the month

- (2) The annual bonus shall be paid on the anniversary of the employee's date of employment with the employer unless the employer and a representative trade union and/or the employee mutually agree in writing upon another date.
- (3) The annual bonus shall be calculated monthly as per (1) above at the ordinary salary rate earned during each relevant month and accumulated and paid to the employee as per sub clause (2).

**7. PUBLIC HOLIDAY**

- (1) All employees working on a Public Holiday will be remunerated in terms of the provisions of the Basic Conditions of Employment Act, No 75 of 1997, or any amendment thereto.
- (2) Compensation to a casual employee, a ship security officer or a cargo security officer for work on a public holiday :
  - (a) Whenever a casual employee works on a public holiday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do. Provided that where the employer requires a casual employee -
    - (i) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage for a qualified employee of that class as calculated in term of clause 3(4);
    - (ii) to work for less than four hours on such a day, an employee shall be deemed to have worked for four hours.
  - (b) Whenever a ship security officer or a cargo security officer works on a public holiday, an employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage.
- (3) **Payment :** The remuneration payable in terms of this clause to an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be paid to the employee not later than the normal pay-day immediately after the day in respect of which such remuneration is payable. A casual employee, a ship security officer or a cargo security officer shall be remunerated as set out in clause 4(6).



**8. COMPENSATION FOR WORK ON A SUNDAY**

- (1) All employees working on a Sunday will be remunerated in terms of the provisions of the Basic Conditions of Employment Act, No 75 of 1997, or any amendment thereto.
- (2) Compensation to a casual employee, a ship security officer or a cargo security officer for work on a Sunday :
  - (a) Whenever a casual employee works on a Sunday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do.  
Provided that where the employer requires a casual employee -
    - (i) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage for a qualified employee of that class as calculated in term of clause 3(4);
    - (ii) to work for less than four hours on such a day, an employee shall be deemed to have worked for four hours.
  - (b) Whenever a ship security officer or a cargo security officer works on a Sunday, an employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage.
- (3) **Payment :** The remuneration payable in terms of this clause to an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be paid to the employee not later than the normal pay-day immediately after the day in respect of which such remuneration is payable. A casual employee, a ship security officer or a cargo security officer shall be remunerated as set out in clause 4(6).

**9. ANNUAL LEAVE**

- (1) In this clause "annual leave cycle" means the period of 12 months employment with the same employer immediately following –
  - (a) an employee's commencement of employment; or
  - (b) the completion of that employee's prior leave cycle.
- (2) The employer must grant an employee at least –
  - (a) 21 consecutive days annual leave paid in accordance with sub clause (12) below, in respect of each annual leave cycle; or
  - (b) by agreement, one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid; or
  - (c) by agreement, one hour of annual leave on full remuneration for every 17 hours on which the employee worked or was entitled to be paid.
- (3) An employee is entitled to take leave accumulated in an annual leave cycle, in terms of sub clause (2), on consecutive days.
- (4) An employer must grant, and an employee must take, annual leave not later than six months after the end of the annual leave cycle.
- (5) An employer may not require or permit an employee to take annual leave during -
  - (a) any other period of leave to which an employee is entitled in terms of this determination; or
  - (b) any period of notice of termination of employment.
- (6) Despite sub clause (5), an employer must permit an employee, at the employee's written request, to take paid leave during a period of unpaid leave.
- (7) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional

leave, calculated at the employee's rate of remuneration, granted to the employee at the employee's request during that leave cycle.

- (8) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would ordinarily have worked.
- (9) An employer may not require or permit an employee to work for the employer during any period of annual leave.
- (10) Annual leave must be taken –
  - (a) in accordance with an agreement between the employer and the employee; or
  - (b) if there is no agreement in terms of sub clause (9)(a), at a time determined by the employer in accordance with this section.
- (11) An employer may not pay an employee instead of granting paid leave in terms of this clause, except –
  - (a) upon termination of employment; and
  - (b) in accordance with clause 20(9)(b).
- (12) An employer must pay an employee leave pay at least equivalent to the ordinary salary payable to the employee for the ordinary hours the employee would normally have worked during the period of annual leave, calculated –
  - (a) at the employee's rate of remuneration immediately before the beginning of the period of annual leave; and
- (13) An employer must pay an employee leave pay –
  - (a) before the beginning of the period of leave; or
  - (b) by agreement, on the employee's usual pay day.
- (14) An employee who has become entitled to a period of leave prescribed in sub clause (1), read with sub clause (7), and whose employment terminates before such leave has been granted and been taken, shall, upon such termination be paid the amount an employee would have received, in respect of the leave, had the leave been granted to the employee and taken by the employee as at the date of the termination, calculated in terms of sub clause (2).

#### 10. SICK-LEAVE

- (1) In this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following –
  - (a) an employee's commencement of employment; or
  - (b) the completion of that employee's prior sick leave cycle.
- (2) During every sick leave cycle an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.
- (3) Despite sub clause (2), during the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 ordinary worked.
- (4) During an employee's first sick leave cycle an employer may reduce the employee's entitlement to sick leave in terms of sub clause (2) by the number of days sick leave taken in terms of sub clause (3).
- (5) Subject to section 23 of the Basic Conditions of Employment Act, No 75 of 1997, an employer must pay an employee for a day's sick leave –
  - (a) the ordinary wage the employee would have received, excluding any allowances; and
  - (b) on the employee's usual pay day.
- (6) An agreement may reduce the pay to which an employee is entitled in respect of any day's absence in

terms of this section if –

- (a) the number of days of paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay; and
- (b) the employee's entitlement to pay -
  - (i) for any day's sick leave is at least 75 per cent of the wage payable to the employee for the ordinary hours the employee would have worked on that day; and
  - (ii) for sick leave over the sick leave cycle is at least equivalent to the employee's entitlement in terms of sub clause (2)

#### **10A. PROOF OF INCAPACITY**

- (1) An employer is not required to pay an employee in terms of clause 10 if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.
- (2) A medical certificate in terms of sub clause (1) must be issued and signed by –
  - (a) A medical practitioner
  - (b) Any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament;

#### **11. FAMILY RESPONSIBILITY LEAVE**

- (1) This section applies to an employee -
  - (a) who has been in employment with an employer for longer than four months; and
  - (b) who works for at least four days a week for that employer.
- (2) An employer must grant an employee, during each annual leave cycle, at the request of the employee, three day's paid leave, which the employee is entitled to take -
  - (a) when the employee's child is born;
  - (b) when the employee's child is sick; or
  - (c) in the event of the death of -
    - (i) the employee's spouse or life partner; or
    - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
- (3) An employer must pay an employee for a day's family responsibility leave -
  - (a) the ordinary wage the employee would have received for a day worked; and
  - (b) on the employee's usual pay day.
- (4) An employee may take family responsibility leave in respect of the whole or a part of a day.
- (5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub clause (2) for which the leave was required.
- (6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual cycle in which it accrues.

#### **12. MATERNITY LEAVE**

- (1) An employee is entitled to at least four consecutive month's maternity leave.
- (2) An employee may commence maternity leave -
  - (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
  - (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

- (3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- (5) An employee must notify her employer in writing, unless the employee is unable to do so, of the date on which the employee intends to -
  - (a) commence maternity leave; and
  - (b) return to work after maternity leave.
- (6) Notification in terms of sub clause (5) must be given -
  - (a) at least four weeks before the employee intends to commence maternity leave; or
  - (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (7) The payment of maternity benefits will be determined by the Minister subject to the provisions of the Unemployment Insurance Act, 1966 (Act No. 30 of 1966).
- (8) During the period of maternity leave the employer shall continue to contribute the provident fund monthly premium in respect of both the employer and employee contributions, the latter not to be recovered upon the return of the employee to work.
- (9) During the period of maternity leave the employer shall continue to contribute the employee's Private Security Industry Regulatory Authority monthly subscription fees, this not to be recovered upon the return of the employee to work.

### **13. STUDY LEAVE**

Every employee with a minimum of one year uninterrupted employment with the same employer shall be entitled to paid study leave of a maximum of 3 (three) days in any year, in respect of any study at a tertiary establishment.

### **14. WRITTEN PARTICULARS OF EMPLOYMENT**

- (1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing -
  - (a) the full name and address of the employer;
  - (b) the name and occupation of the employee or a brief description of the work for which the employee is employed;
  - (c) the places of work and, where the employee is required or permitted to work at various places, an indication of this;
  - (d) the date on which the employment began;
  - (e) the employee's ordinary hours of work and days of work;
  - (f) the employee's salary or the rate and method of calculating salary;
  - (g) the rate of pay for overtime work;
  - (h) any other payments to which the employee is entitled;
  - (i) how frequently remuneration will be paid;
  - (j) any deductions to be made from the employee's remuneration;
  - (k) the leave to which the employee is entitled;
  - (l) the period of notice required to terminate employment, or if the employment is for a specified period, the date when employment is to terminate;
  - (m) a description of any council or sectoral determination which covers the employer's business;
  - (n) any period of employment with a previous employer that counts towards the employee's period of employment;
  - (o) a list of any other documents that form part of the contract of employment, indicating a place that is readily accessible to the employee where a copy of each may be obtained.
- (2) When any matter listed in sub clause (1) changes, the written particulars must be revised to reflect the

change and the employee must be supplied with a copy of the document reflecting the change.

- (3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.
- (4) Written particulars of this section must be kept by the employer for a period of three years after the termination of employment.

## 15. KEEPING OF RECORDS

- (1) Every employer must for all employees in his current employ keep a record containing at least the following information
  - (a) the employee's name and occupation;
  - (b) the time worked by each employee;
  - (c) the remuneration paid to each employee;
  - (d) the date of birth of any employee under 18 years of age; and
  - (e) any other prescribed information.
- (2) A record in terms of sub clause (1)(b) and (1)(c) must be kept by the employer for a period of three years from the date of the last entry in the record of which the most recent six months record must be hard copy and older may be kept electronically
- (3) No person may make a false entry in a record maintained in terms of sub clause (1).
- (4) An employer who keeps a record in terms of this clause is not required to keep any other record of time worked and remuneration paid as required by any other employment law.
- (5) An employer must for all employees who have left his employ keep the above records for a period of three years of which the most recent six months records as per (1)(b) and (1)(c) must be hard copy.

## 16. PRESUMPTION AS TO WHO IS AN EMPLOYEE

- (1) Any person on contract performing the duties of a security officer, as defined in sub clauses 2(54) to 2(61), as well as any person on contract performing the duties of other categories, as defined herein, except for managers.
- (2) Until the contrary is proved, a person who works for, or provides services to, any other person is presumed, regardless of the form of the contract, to be an employee, if any one or more of the following factors are present :
  - (a) the manner in which the person works is subject to the control or direction of another person;
  - (b) the person's hours of work are subject to the control or direction of another person;
  - (c) in the case of a person who works for an organisation, the person forms part of that organisation;
  - (d) the person has worked for that person for an average of at least 40 hours per month over the last three months;
  - (e) that person is economically dependant on the person for whom they work or provide services;
  - (f) the person is provided with their tools of trade or work equipment by that person; or
  - (g) the person only works for or supplies services to one person.

## 17. WEAPONS, UNIFORMS, OVERALLS AND PROTECTIVE CLOTHING

- (1) An employer shall -
  - (a) provide free of charge any weapon, ammunition, tool, whistle or other equipment which a security officer, in the performance of the employee's duties, needs or is required to use for self-defence or apprehension;
  - (b) in a like manner provide the officer with, or ensure that an officer is provided with, a seat which has a proper back support;

- (c) supply, free of charge, a jersey, coat or other suitable outer garment for the employee's protection against cold or wet weather, as well as any footwear, uniform, overall, or other protective clothing which an employer requires an employee to wear or which an employee is required by any law to provide for an employee. An employer who provides an employee with any such apparel, may require the employee to clean it in the employee's own time, in which event the employer shall pay the employee not less than R1-85 per week, which shall however not be payable during periods of absence from work.
- (2) Any article provided by an employer in terms of sub clause (1) shall remain the employer's property.
- (3) No employer shall make any deduction from the wages of any employee in regard to any article provided to that employee in terms of sub clause (1): Provided that where an article is found by a fair procedure to have been lost or damaged by an employee, excluding damage arising from the performance of the employee's duties or normal wear and tear, an employer may, notwithstanding anything to the contrary in this determination, recover the cost of such article from the employee by making a deduction over an appropriate period from that employee's wage. Further, provided that such monthly deduction shall not exceed one tenth of the employee's monthly remuneration.

#### **18. PROHIBITION OF EMPLOYMENT OF CHILDREN**

- (1) No person may employ a child -
  - (a) who is under 15 years of age; or
  - (b) who is under the minimum school-leaving age in terms of any law, if this is 15 or older.
- (2) No person may employ a child in employment -
  - (a) that is inappropriate for a person at that age;
  - (b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.
- (3) A person who employs a child in contravention of sub clause (1) or (2) commits an offence.

#### **19. PROHIBITION OF FORCED LABOUR**

- (1) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.
- (2) No person may, for the employee's own benefit or for the benefit of someone else, cause, demand or impose forced labour in contravention of sub clause (1).
- (3) A person who contravenes sub clauses (1) or (2) commits an offence.

#### **20. TERMINATION OF CONTRACT OF EMPLOYMENT**

- (1) Subject to sub clause (6)(b), a contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than -
  - (a) one week, if the employee has been employed for four weeks or less;
  - (b) two weeks, if the employee has been employed for more than four weeks but less than one year; and
  - (c) four weeks, if the employee has been employed for one year or more.
- (2) A collective agreement may not permit a notice period shorter than required by sub clause (1).
- (3) No agreement may require or permit an employee to give a period of notice longer than that required of the employer.
- (4)
  - (a) Notice of termination of a contract of employment must be given in writing, except when it is given by an illiterate employee.
  - (b) If an employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the employee in an official language the

employee reasonably understands.

- (5) Notice of termination of a contract of employment given by an employer or an employee must not -
  - (a) be given during any period of leave to which the employee is entitled in terms of clause 9(1), and
  - (b) run concurrently with any period of leave to which the employee is entitled in terms of clause 9(1), except sick leave.
- (6) Nothing in this clause affects the right -
  - (a) of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law, and
  - (b) of an employer or an employee to terminate a contract of employment without notice for any cause recognised by law.
- (7) Instead of giving an employee or employer notice in terms of sub clause (1), an employer may pay the employee the remuneration the employee would have received, calculated in accordance with sub clause (1), as if the employee had worked during the notice period.
- (8) If an employee gives notice of termination of employment and the employer waives any part of the notice, the employer must pay the remuneration referred to in sub clause (7), unless the employer and employee agree otherwise.
- (9) On termination of employment, an employer must pay an employee -
  - (a) remuneration in respect of -
    - (i) ordinary time worked, calculated in terms of clause 3(4);
    - (ii) overtime worked, calculated in terms of clause 5(9);
    - (iii) time worked on a Sunday, calculated in terms of clause 8(3); and
    - (iv) time worked on a public holiday or in respect of a public holiday on which the employee would normally have worked if it had not been a public holiday, in terms of clauses 7(1) and 7(2);
  - (b) remuneration calculated in accordance with clause 9(12) for any period of annual leave due in terms of clause 9(2) that the employee has not taken;
  - (c) if the employee has been in employment longer than four months, in respect of the employee's annual leave entitlement during an incomplete annual leave cycle, at a rate of one day's remuneration in respect of every 17 ordinary days on which the employee worked or was entitled to be paid.

## 21. SEVERANCE PAY

- (1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.
- (2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with clause 3.
- (3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of sub clause (2).
- (4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.
- (5) If there is a dispute only about the entitlement to severance pay in terms of this section, the employee may refer the dispute in writing to -
  - (a) a council, if the parties to the dispute fall within the registered scope of that council; or
  - (b) the CCMA, if no council has jurisdiction.

- (6) The employee who refers a dispute to the council or the CCMA must satisfy it that a copy of the referral has been served on all other parties to the dispute.
- (7) If the dispute remains unresolved, the employee may refer it to arbitration.
- (8) If the Labour Court is adjudicating a dispute about a dismissal based on the employer's operational requirements, the Court may inquire into and determine the amount of any severance pay to which the employee may be entitled and the Court may make an order directing the employer to pay that amount.

## **22. CERTIFICATE OF SERVICE**

- (1) On termination of employment an employee is entitled to a certificate of service in the form of annexure "A" stating -
  - (a) the employee's full name;
  - (b) the name and address of the employer;
  - (c) a description of any bargaining council or sectoral employment standard by which the employer's business is covered;
  - (d) the date of commencement and date of termination of employment;
  - (e) the title of the job or a brief description of the work for which the employee was employed at the date of termination;
  - (f) the remuneration at date of termination; and
  - (g) if the employee so requests, the reason for termination of employment.

## **23. ATTENDANCE REGISTER**

- (1) An employer shall maintain an attendance register in any form of attendance documentation which is acceptable substantially in the form of annexure "B", in which the employer shall record in ink or indelible pencil the name and class of each of the employees for each day worked and on that day make the necessary entries in respect of items (i) to (vi) of sub clause (3)(a).
- (2) An employer may, instead of an attendance register, provide a semi-automatic time recorder which records substantially the same information as is required to be kept in the attendance register specified in sub clause (1).
- (3) Every employer shall, in respect of each day worked by an employee on that day -
  - (a) record in ink or indelible pencil in such attendance register referred to in sub clause (1) -
    - (i) the day of the week;
    - (ii) the time an employee commenced work;
    - (iii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work;
    - (iv) the time of finishing work for the day;
    - (v) the time of commencement and termination of overtime worked for the day; and
    - (vi) the total amount of hours worked for the day.
  - (b) in an establishment where a semi-automatic time recorder is provided, make an entry by means of such recorder to show the following :
    - (i) the time of commencement of work;
    - (ii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work; and
    - (iii) the time of finishing work for the day.
- (4) An employer shall retain such attendance register referred to in sub clause (1) or the information recorded by a semi-automatic time recorder referred to in sub clause (2), as case may be, for a period of not less than three years after the date of the last entry therein or thereon. Such register may be kept in electronic form.

## **24. PRIVATE SECURITY SECTOR PROVIDENT FUND**



## 1. Membership

- (1) Each employee, subject to the exclusions in clause 1(2) that falls within the definition of eligible employee as contained in the Fund Rules, shall, on or after the coming into operation of this Determination, become a member of the Private Security Sector Provident Fund.
- (2) If an employee who has become a member of the Fund ceases to fall within the scope of this Determination owing to the employee ceasing to be employed in the Private Security Services Sector or as a result of the employee no longer being classified as an eligible member as defined the employee shall cease to be a member of the Fund and the payment of withdrawal benefit will be made to the member as provided for in the Fund Rules.

## 2. Contributions

- (1) Contributions shall be made by employers and employees as from the date of coming into operation of this Determination as specified hereunder.
  - (a) The employer shall each month deduct from the earnings of each employee in respect of such month, or part thereof, an amount equal to 6,5 % (five per cent) of the employee's Fund Salary, being contributions to the Provident Fund.
  - (b) The employer shall each month contribute in respect of such month or part thereof an amount equal to 6,5% (five per cent) of the employees' Fund Salary being the employer's contributions to the Provident Fund.
  - (c) When an employee is on approved leave with full pay, or with less than full pay, the employee shall contribute to the Fund, in accordance with sub clause (1)(a), and the employer shall continue to contribute in respect of the employee, in accordance with sub clause (1)(b), and all benefits under the Fund in respect of the employee shall be maintained,
  - (d) If an employee is on approved leave without pay, no contributions shall be made by the employee in terms of sub clause (1)(a), but the employer shall continue to contribute on behalf of the employee in terms sub clause (1)(b), in order that the death, disability and funeral benefits shall continue to be payable.
    - (i) throughout the period of leave, if the employee's leave is due to sickness; or
    - (ii) for not longer than six months, if the employee's leave is due to reasons other than sickness.
- (2) The amount payable in each month in terms of this clause shall be deposited by the employer directly into the Fund's bank account no later than the 7th day of the month immediately following the month in which deductions and contributions were made.
  - (a) in South African currency
  - (b) in cash, by cheque or by direct deposit in an account designated by the administrators, and
  - (c) together with such particulars as are required in terms of the Retirement Funds Act and/or by the board;
  - (d) the contribution payable shall constitute an amount calculated at a rate of not less than 13% of the employee's wage or as amended by the Board of Management from time to time; and
  - (e) such amount as referred to in paragraph (d) shall constitute an equal contribution by an employer and employee.

- (3) If any amount which falls due in terms of this clause is not received in full by the administrator of the Fund by the 7<sup>th</sup> day of the month following the month for which the amount is payable, then the employer shall be liable to pay penalty interest in accordance with section 13A of the Pension Funds Act,
- (4) Any deductions in terms of this clause will not be in violation of clause 4(11)(d) of the Private Security Sector Sectoral Determinations No 6, 2001.

### **3. Administration and provision of the fund**

In order to realise the objects of the Fund the trustees shall

- (1) direct control and oversee the operation of the Fund in accordance with the Fund Rules and the Pension Funds Act.
- (2) enter into an agreement with an administrator to administer the Fund; and
- (3) at their elections
  - (a) enter into an agreement with a registered insurance company; or
  - (b) establish a self-insurance arrangement or cell captive arrangement to provide Death, Disability and/or Funeral benefits.

### **4. Fund rules**

- (1) The Fund Rules constitute the rules that govern the Fund in the Private Security Sector.
- (2) In the event of any discrepancy between this Sectoral Determination and the Fund Rules, the Fund Rules will apply.

### **5. Exemption Criteria**

- (1) The following criteria for an exemption from the Private Security Sector Provident Fund will apply, provided that -
  - (a) If the employer, prior to the publication of Government Notice No 306 of 30 March 2001, had an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination No 3, as amended or replaced.
  - (b) If the employer, prior to the publication of Government Notice No 306 of 30 March 2001, did not have an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination No 3, as amended or replaced, but before 30 March 2001, the employer and its employees have consulted in writing to commence negotiations for the establishment of a pension or provident fund for such employees.
- (2) The Board will consider all applications for exemption from the provisions of the Private Security Sector Provident Fund.
- (3) Applications will be in writing and addressed to the Board of the Private Security Sector Provident Fund. Applications shall comply with the following:
  - (a) Be fully motivated.
  - (b) Be accompanied by relevant supporting data and financial information.
  - (c) Applications that affect employees' conditions of service will not be considered unless the employees or their representatives have been properly consulted and their views fully recorded

in an accompanying document.

(d) Indicate the period for which exemption is required.

(4) In considering the application the Board shall take into consideration all relevant factors, which may include, but shall not be limited to, the following criteria :

(a) Any special circumstances that exist

(b) Any precedent that may be set

(c) The interest of the industry as regards -

(i) Unfair competition

(ii) Collective bargaining

(iii) Potential for labour unrest

(iv) Increased employment

(d) The interest of employees as regards :

(i) Exploitation

(ii) Job preservation

(iii) Sound conditions of employment

(iv) Possible financial benefits

(v) Health and safety

(vi) Infringement of basic rights

(e) The interest of the employer as regards :

(i) Financial stability

(ii) Impact of productivity

(iii) Future relationship with employees trade union

(iv) Operational requirements

(5) If the application is granted, the Board shall issue an exemption certificate, signed by the chairperson, containing the following particulars :

(a) The full name of the applicant

(b) The trade name of the applicant

(c) The period for which the exemption shall operate

(d) The date of issue

(e) The conditions of the exemption granted

(6) If the exemption is refused the Board shall specify its reasons for not granting the application, and which will be communicated to the applicant.

(7) The Board shall retain a copy of the certificate and number each certificate sequentially.

(8) An employer to whom a certificate of exemption has been issued shall at all times have the certificate available for inspection at his establishment.

(9) Any application by an Employer for exemption shall in no way whatsoever affect the Employer's obligations, nor his employees' rights, with regard to the payment of all contributions and benefits in terms of the rules of that employer's retirement fund and/or his employees' conditions of employment during any period that the application is under consideration.

**25. EMPLOYERS TO KEEP A COPY OF THIS DETERMINATION**

Every employer upon whom this Determination is binding must :

- (1) keep a copy of this Sectoral Determination available in the workplace at all times;
- (2) make a copy available for inspection by an employee; and
- (3) give a copy of this Sectoral Determination -
  - (a) to an employee who has paid the prescribed fee; and
  - (b) free of charge, on request, to an employee who is a trade union representative or a member of a workplace forum.

**26. VARIATION BY MINISTER**

The Minister may make a determination to replace or exclude any basic condition of employment provided for in this determination in terms of section 50 of the Basic Conditions of Employment Act, 1997, upon motivated application by an employer and/or an employers' association.

**All the provisions of sectoral determination 6: private security sector, South Africa published under Government notice Nr 1250 of 30 November 2001, clarification notice published under Government notice Nr 45 of 19 January 2001, amendments published under Government gazette notice Nr 306 of 30 March 2001, Government gazette notice Nr 804 of 13 June 2003, correction notice of Nr 1109 of 1<sup>st</sup> October 2004, correction notice of Nr 1430 of 10 December 2004 and all other amendments thereto will be superseded by this sectoral determination with effect from the date of implementation.**